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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/847,244	05/01/2001	Melissa D. Beebe	M-9898 US	9206

7590 06/17/2003
Hamilton & Terrile LLP
P O Box 203518
Austin, TX 78720

EXAMINER

GORT, ELAINE L

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 06/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/847,244

Applicant(s)

BEEBE ET AL.

Examiner

Elaine Gort

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 May 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 13-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-12, drawn to a method for scheduling work and delivery of material for mass-producing items in a factory, classified in class 705, subclass 28.
 - II. Claims 13-15, drawn to a computer system, classified in class 709, subclass 217.
 - III. Claims 16-18, drawn to an automated data warehouse/computer readable storage medium, classified in class 700, subclass 11.

The inventions are distinct, each from the other because of the following reasons:

Inventions I. and II. are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case Invention I. could be carried out by hand, at least in part. For example the step of obtaining a customer order could be carried out by hand by an individual.

Inventions I. and III. are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as

claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case Invention I. could be carried out by hand, at least in part. For example the step of obtaining a customer order could be carried out by hand by an individual.

Inventions II. and III. are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention Invention II. has separate utility such as the computer system could be used to perform market research or analysis, be used for communication purposes over e-mail, etc. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above, because the search required for each Invention is not required for the other Inventions, and because the inventions have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

During a telephone conversation with Stephen Terrile (32,946) on June 10, 2003 a provisional election was made with traverse to prosecute the invention of Invention I., claims 1-12. Affirmation of this election must be made by applicant in replying to this Office action. Claims 13-15 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Noori.

Noori discloses the claimed method for scheduling work and delivery of material for mass producing items in a factory. Noori discloses establishing work schedules and material delivery schedules (such as detailed in chapters 15-18) based on items ordered and the current state of available inventory along with using a method that integrates material sources (such as the manufacturer's suppliers). All other claimed limitations are either disclosed or inherent.

Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elaine Gort whose telephone number is (703)308-6391. The examiner can normally be reached on Monday through Thursday from 7:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski, can be reached at (703)308-5183. The fax phone number for the organization where this application or processing is assigned is (703)305-7687.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1113.

EG



June 12, 2003



ROBERT P. OLSZEWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600